

ELECTRONIC CIGARETTES IN SCHOOLS AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill addresses student use of alcohol, tobacco, electronic cigarette products, and other substances through education and prevention programs and discipline procedures.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions relating to the offense of underage purchase and possession of electronic cigarette products;
- ▶ requires schools to adopt discipline procedures to address possession and use of electronic cigarette products on school grounds;
- ▶ renames the Underage Drinking Prevention Program the Underage Drinking and Substance Abuse Prevention Program;
- ▶ adds a requirement to teach a school-based prevention program for students in grade 4 or 5;
- ▶ adds a requirement to include education about the risks of electronic cigarette products in a school-based prevention program;
- ▶ requires schools to create a plan to address the causes of student use of tobacco, alcohol, electronic cigarette products, and controlled substances;
- ▶ creates a stipend for a specialist to administer the plan; and
- ▶ requires the state board to establish a library of best practices.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-9-304, as last amended by Laws of Utah 2019, Chapter 186

33 **53G-1-103**, as enacted by Laws of Utah 2018, Chapter 3
 34 **53G-7-1202**, as last amended by Laws of Utah 2019, Chapters 150, 293, and 505
 35 **53G-7-1205**, as last amended by Laws of Utah 2019, Chapters 150, 167, and 293
 36 **53G-8-203**, as last amended by Laws of Utah 2019, Chapters 293 and 446
 37 **53G-8-209**, as last amended by Laws of Utah 2019, Chapter 293
 38 **53G-10-405**, as last amended by Laws of Utah 2019, Chapter 293
 39 **53G-10-406**, as last amended by Laws of Utah 2019, Chapter 293
 40 **76-10-101**, as last amended by Laws of Utah 2015, Chapters 66, 132 and last amended
 41 by Coordination Clause, Laws of Utah 2015, Chapter 132
 42 **76-10-105 (Superseded 07/01/20)**, as last amended by Laws of Utah 2018, Chapter 415
 43 **76-10-105 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232

44 ENACTS:

45 **53G-10-407**, Utah Code Annotated 1953

46

47 *Be it enacted by the Legislature of the state of Utah:*

48 Section 1. Section **53F-9-304** is amended to read:

49 **53F-9-304. Underage Drinking and Substance Abuse Prevention Program**
 50 **Restricted Account.**

51 (1) As used in this section, "account" means the Underage Drinking and Substance
 52 Abuse Prevention Program Restricted Account created in this section.

53 (2) There is created within the Education Fund a restricted account known as the
 54 "Underage Drinking and Substance Abuse Prevention Program Restricted Account."

55 (3) (a) Before the Department of Alcoholic Beverage Control deposits any portion of
 56 the markup collected under Section 32B-2-304 into the Liquor Control Fund in accordance
 57 with Section 32B-2-301, the Department of Alcoholic Beverage Control shall deposit into the
 58 account:

59 (i) for the fiscal year that begins July 1, 2017, \$1,750,000; or

60 (ii) for each fiscal year that begins on or after July 1, 2018, an amount equal to the
 61 amount that the Department of Alcoholic Beverage Control deposited into the account during
 62 the preceding fiscal year increased or decreased by a percentage equal to the percentage
 63 difference between the Consumer Price Index for the second preceding calendar year and the

64 Consumer Price Index for the preceding calendar year.

65 (b) For purposes of this Subsection (3), the Department of Alcoholic Beverage Control
66 shall calculate the Consumer Price Index in accordance with 26 U.S.C. Secs. 1(f)(4) and
67 1(f)(5).

68 (4) The account shall be funded:

69 (a) in accordance with Subsection (3);

70 (b) by appropriations made to the account by the Legislature; and

71 (c) by interest earned on money in the account.

72 (5) The state board shall use money in the account for the Underage Drinking and
73 Substance Abuse Prevention Program described in Section 53G-10-406.

74 Section 2. Section **53G-1-103** is amended to read:

75 **53G-1-103. Definitions.**

76 As used in this title:

77 (1) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.

78 (2) "Electronic cigarette product" means an electronic cigarette or a prefilled electronic
79 cigarette.

80 (3) "Prefilled electronic cigarette" means the same as that term is defined in Section
81 76-10-101.

82 Section 3. Section **53G-7-1202** is amended to read:

83 **53G-7-1202. School community councils -- Duties -- Composition -- Election**
84 **procedures and selection of members.**

85 (1) As used in this section:

86 (a) "Digital citizenship" means the norms of appropriate, responsible, and healthy
87 behavior related to technology use, including digital literacy, ethics, etiquette, and security.

88 (b) "Educator" means the same as that term is defined in Section 53E-6-102.

89 (c) (i) "Parent member" means a member of a school community council who is a
90 parent of a student who:

91 (A) is attending the school; or

92 (B) will be enrolled at the school during the parent's term of office.

93 (ii) "Parent member" may not include an educator who is employed at the school.

94 (d) "Safety principles" means safety principles that, when incorporated into programs

95 and resources, impact academic achievement by strengthening a safe and wholesome learning
96 environment, including continual efforts for safe technology utilization and digital citizenship.

97 (e) "School community council" means a council established at a district school in
98 accordance with this section.

99 (f) "School employee member" means a member of a school community council who is
100 a person employed at the school by the school or school district, including the principal.

101 (g) "School LAND Trust Program money" means money allocated to a school pursuant
102 to Section 53F-2-404.

103 (2) A district school, in consultation with the district school's local school board, shall
104 establish a school community council at the school building level for the purpose of:

105 (a) involving parents of students in decision making at the school level;

106 (b) improving the education of students;

107 (c) prudently expending School LAND Trust Program money for the improvement of
108 students' education through collaboration among parents, school employees, and the local
109 school board; and

110 (d) increasing public awareness of:

111 (i) school trust lands and related land policies;

112 (ii) management of the State School Fund established in Utah Constitution Article X,
113 Section V; and

114 (iii) educational excellence.

115 (3) (a) Except as provided in Subsection (3)(b), a school community council shall:

116 (i) create the School LAND Trust Program and LAND Trust plan in accordance with
117 Section 53G-7-1206;

118 (ii) advise and make recommendations to school and school district administrators and
119 the local school board regarding:

120 (A) the school and its programs;

121 (B) school district programs;

122 (C) a child access routing plan in accordance with Section 53G-4-402;

123 (D) safe technology utilization and digital citizenship; and

124 (E) other issues relating to the community environment for students;

125 (iii) provide for education and awareness on safe technology utilization and digital

126 citizenship that empowers:

127 (A) a student to make smart media and online choices; and

128 (B) a parent to know how to discuss safe technology use with the parent's child;

129 (iv) partner with the school's principal and other administrators to ensure that adequate

130 on and off campus Internet filtering is installed and consistently configured to prevent viewing

131 of harmful content by students and school personnel, in accordance with local school board

132 policy and Subsection 53G-7-216(3); ~~and~~

133 (v) in accordance with state board rule regarding school community council

134 expenditures and funding limits:

135 (A) work with students, families, and educators to develop and incorporate safety

136 principles at the school; and

137 (B) hold at least an annual discussion with the school's principal and district

138 administrators regarding safety principles at the school and district level in order to coordinate

139 the school community council's effort to develop and incorporate safety principles at the

140 school[-]; and

141 (vi) provide input to the school's principal on a positive behaviors plan in accordance

142 with Section 53G-10-407.

143 (b) To fulfill the school community council's duties described in Subsections (3)(a)(iii)

144 and (iv), a school community council may:

145 (i) partner with one or more non-profit organizations; or

146 (ii) create a subcommittee.

147 (c) A school or school district administrator may not prohibit or discourage a school

148 community council from discussing issues, or offering advice or recommendations, regarding

149 the school and its programs, school district programs, the curriculum, or the community

150 environment for students.

151 (4) (a) Each school community council shall consist of school employee members and

152 parent members in accordance with this section.

153 (b) Except as provided in Subsection (4)(c) or (d):

154 (i) each school community council for a high school shall have six parent members and

155 four school employee members, including the principal; and

156 (ii) each school community council for a school other than a high school shall have

157 four parent members and two school employee members, including the principal.

158 (c) A school community council may determine the size of the school community
159 council by a majority vote of a quorum of the school community council provided that:

160 (i) the membership includes two or more parent members than the number of school
161 employee members; and

162 (ii) there are at least two school employee members on the school community council.

163 (d) (i) The number of parent members of a school community council who are not
164 educators employed by the school district shall exceed the number of parent members who are
165 educators employed by the school district.

166 (ii) If, after an election, the number of parent members who are not educators employed
167 by the school district does not exceed the number of parent members who are educators
168 employed by the school district, the parent members of the school community council shall
169 appoint one or more parent members to the school community council so that the number of
170 parent members who are not educators employed by the school district exceeds the number of
171 parent members who are educators employed by the school district.

172 (5) (a) Except as provided in Subsection (5)(f), a school employee member, other than
173 the principal, shall be elected by secret ballot by a majority vote of the school employees and
174 serve a two-year term. The principal shall serve as an ex officio member with full voting
175 privileges.

176 (b) (i) Except as provided in Subsection (5)(f), a parent member shall be elected by
177 secret ballot at an election held at the school by a majority vote of those voting at the election
178 and serve a two-year term.

179 (ii) (A) Except as provided in Subsection (5)(b)(ii)(B), only a parent of a student
180 attending the school may vote in, or run as a candidate in, the election under Subsection
181 (5)(b)(i).

182 (B) If an election is held in the spring, a parent of a student who will be attending the
183 school the following school year may vote in, and run as a candidate in, the election under
184 Subsection (5)(b)(i).

185 (iii) Any parent of a student who meets the qualifications of this section may file or
186 declare the parent's candidacy for election to a school community council.

187 (iv) (A) Subject to Subsections (5)(b)(iv)(B) and (5)(b)(iv)(C), a timeline for the

188 election of parent members of a school community council shall be established by a local
189 school board for the schools within the school district.

190 (B) An election for the parent members of a school community council shall be held
191 near the beginning of the school year or held in the spring and completed before the last week
192 of school.

193 (C) Each school shall establish a time period for the election of parent members of a
194 school community council under Subsection (5)(b)(iv)(B) that is consistent for at least a
195 four-year period.

196 (c) (i) At least 10 days before the date that voting commences for the elections held
197 under Subsections (5)(a) and (5)(b), the principal of the school, or the principal's designee,
198 shall provide notice to each school employee or parent of the opportunity to vote in, and run as
199 a candidate in, an election under this Subsection (5).

200 (ii) The notice shall include:

201 (A) the dates and times of the elections;

202 (B) a list of council positions that are up for election; and

203 (C) instructions for becoming a candidate for a community council position.

204 (iii) The principal of the school, or the principal's designee, shall oversee the elections
205 held under Subsections (5)(a) and (5)(b).

206 (iv) Ballots cast in an election held under Subsection (5)(b) shall be deposited in a
207 secure ballot box.

208 (d) Results of the elections held under Subsections (5)(a) and (5)(b) shall be made
209 available to the public upon request.

210 (e) (i) If a parent position on a school community council remains unfilled after an
211 election is held, the other parent members of the council shall appoint a parent who meets the
212 qualifications of this section to fill the position.

213 (ii) If a school employee position on a school community council remains unfilled after
214 an election is held, the other school employee members of the council shall appoint a school
215 employee to fill the position.

216 (iii) A member appointed to a school community council under Subsection (5)(e)(i) or
217 (ii) shall serve a two-year term.

218 (f) (i) If the number of candidates who file for a parent position or school employee

219 position on a school community council is less than or equal to the number of open positions,
220 an election is not required.

221 (ii) If an election is not held pursuant to Subsection (5)(f)(i) and a parent position
222 remains unfilled, the other parent members of the council shall appoint a parent who meets the
223 qualifications of this section to fill the position.

224 (iii) If an election is not held pursuant to Subsection (5)(f)(i) and a school employee
225 position remains unfilled, the other school employee members of the council shall appoint a
226 school employee who meets the qualifications of this section to fill the position.

227 (g) The principal shall enter the names of the council members on the School LAND
228 Trust website on or before October 20 of each year, pursuant to Section 53G-7-1203.

229 (h) Terms shall be staggered so that approximately half of the council members stand
230 for election each year.

231 (i) A school community council member may serve successive terms provided the
232 member continues to meet the definition of a parent member or school employee member as
233 specified in Subsection (1).

234 (j) Each school community council shall elect:

235 (i) a chair from its parent members; and

236 (ii) a vice chair from either its parent members or school employee members,
237 excluding the principal.

238 (6) (a) A school community council may create subcommittees or task forces to:

239 (i) advise or make recommendations to the council; or

240 (ii) develop all or part of a plan listed in Subsection (3).

241 (b) Any plan or part of a plan developed by a subcommittee or task force shall be
242 subject to the approval of the school community council.

243 (c) A school community council may appoint individuals who are not council members
244 to serve on a subcommittee or task force, including parents, school employees, or other
245 community members.

246 (7) (a) A majority of the members of a school community council is a quorum for the
247 transaction of business.

248 (b) The action of a majority of the members of a quorum is the action of the school
249 community council.

250 (8) A local school board shall provide training for a school community council each
251 year, including training:

252 (a) for the chair and vice chair about their responsibilities;

253 (b) on resources available on the School LAND Trust website; and

254 (c) on this part.

255 Section 4. Section **53G-7-1205** is amended to read:

256 **53G-7-1205. Charter trust land councils.**

257 (1) As used in this section, "council" means a charter trust land council described in
258 this section.

259 (2) To receive School LAND Trust Program funding as described in Sections
260 53F-2-404 and 53G-7-1206, a charter school governing board shall establish a charter trust
261 land council, which shall prepare a plan for the use of School LAND Trust Program money that
262 includes the elements described in Subsection 53G-7-1206(4).

263 (3) (a) The membership of the council shall include parents or grandparents of students
264 enrolled at the charter school and may include other members.

265 (b) The number of council members who are parents or grandparents of students
266 enrolled at the charter school shall exceed all other members combined by at least two.

267 (4) A charter school governing board may serve as the charter school's council if the
268 membership of the charter school governing board meets the requirements of Subsection (3)(b).

269 (5) (a) Except as provided in Subsection (5)(b), council members who are parents or
270 grandparents of students enrolled at the school shall be elected in accordance with procedures
271 established by the charter school governing board.

272 (b) Subsection (5)(a) does not apply to a charter school governing board that serves as
273 a council.

274 (6) A parent or grandparents of a student enrolled at a charter school shall serve as
275 chair or co-chair of the charter school's council.

276 (7) In accordance with state board rule regarding charter trust land council
277 expenditures and funding limits, a charter trust land council shall:

278 (a) work with students, families, and educators to develop and incorporate safety
279 principles, as defined in Section 53G-7-1202, at the school; and

280 (b) hold at least an annual discussion with charter school administrators to coordinate

281 efforts to develop and incorporate safety principles, as defined in Section 53G-7-1202, at the
282 school level.

283 (8) A charter trust land council shall provide input to the school's principal on a
284 positive behaviors plan in accordance with Section 53G-10-407.

285 Section 5. Section **53G-8-203** is amended to read:

286 **53G-8-203. Conduct and discipline policies and procedures.**

287 (1) The conduct and discipline policies required under Section 53G-8-202 shall
288 include:

289 (a) provisions governing student conduct, safety, and welfare;

290 (b) standards and procedures for dealing with students who cause disruption in the
291 classroom, on school grounds, on school vehicles, or in connection with school-related
292 activities or events;

293 (c) procedures for the development of remedial discipline plans for students who cause
294 a disruption at any of the places referred to in Subsection (1)(b);

295 (d) procedures for the use of reasonable and necessary physical restraint in dealing with
296 students posing a danger to themselves or others, consistent with Section 53G-8-302;

297 (e) standards and procedures for dealing with student conduct in locations other than
298 those referred to in Subsection (1)(b), if the conduct threatens harm or does harm to:

299 (i) the school;

300 (ii) school property;

301 (iii) a person associated with the school; or

302 (iv) property associated with a person described in Subsection (1)(e)(iii);

303 (f) procedures for the imposition of disciplinary sanctions, including suspension and
304 expulsion;

305 (g) specific provisions, consistent with Section 53E-3-509, for preventing and
306 responding to gang-related activities in the school, on school grounds, on school vehicles, or in
307 connection with school-related activities or events;

308 (h) standards and procedures for dealing with habitual disruptive or unsafe student
309 behavior in accordance with the provisions of this part; and

310 (i) procedures for responding to reports received through the SafeUT Crisis Line under
311 Subsection 53B-17-1202(3).

312 (2) (a) Each local school board shall establish a policy on detaining students after
313 regular school hours as a part of the district-wide discipline plan required under Section
314 53G-8-202.

315 (b) (i) The policy described in Subsection (2)(a) shall apply to elementary school
316 students, grades kindergarten through 6.

317 (ii) The local school board shall receive input from teachers, school administrators, and
318 parents of the affected students before adopting the policy.

319 (c) The policy described in Subsection (2)(a) shall provide for:

320 (i) notice to the parent of a student prior to holding the student after school on a
321 particular day; and

322 (ii) exceptions to the notice provision if detention is necessary for the student's health
323 or safety.

324 (3) (a) Each local school board shall adopt specific procedures for responding to
325 possession or use of electronic cigarette products by a student on school property.

326 (b) The procedures described in Subsection (3)(a) shall:

327 (i) include a policy for the confiscation of electronic cigarette products; and

328 (ii) require school personnel to provide confiscated electronic cigarette products to
329 local law enforcement for storage, testing, and disposal.

330 Section 6. Section **53G-8-209** is amended to read:

331 **53G-8-209. Extracurricular activities -- Prohibited conduct -- Reporting of**
332 **violations -- Limitation of liability.**

333 (1) The Legislature recognizes that:

334 (a) participation in student government and extracurricular activities may confer
335 important educational and lifetime benefits upon students, and encourages school districts and
336 charter schools to provide a variety of opportunities for all students to participate in such
337 activities in meaningful ways;

338 (b) there is no constitutional right to participate in these types of activities, and does
339 not through this section or any other provision of law create such a right;

340 (c) students who participate in student government and extracurricular activities,
341 particularly competitive athletics, and the adult coaches, advisors, and assistants who direct
342 those activities, become role models for others in the school and community;

343 (d) these individuals often play major roles in establishing standards of acceptable
344 behavior in the school and community, and establishing and maintaining the reputation of the
345 school and the level of community confidence and support afforded the school; and

346 (e) it is of the utmost importance that those involved in student government, whether as
347 officers or advisors, and those involved in competitive athletics and related activities, whether
348 students or staff, comply with all applicable laws and standards of behavior and conduct
349 themselves at all times in a manner befitting their positions and responsibilities.

350 (2) (a) The state board may, and local school boards and charter school governing
351 boards shall, adopt rules or policies implementing this section that apply to both students and
352 staff.

353 (b) The rules or policies described in Subsection (2)(a) shall include prohibitions
354 against the following types of conduct in accordance with Section 53G-8-211, while in the
355 classroom, on school property, during school sponsored activities, or regardless of the location
356 or circumstance, affecting a person or property described in Subsections 53G-8-203(1)(e)(i)
357 through (iv):

358 (i) use of foul, abusive, or profane language while engaged in school related activities;

359 (ii) illicit use, possession, or distribution of controlled substances or drug
360 paraphernalia, and the use, possession, or distribution of an electronic cigarette [~~as defined in~~
361 ~~Section 76-10-101~~] product, tobacco, or alcoholic beverages contrary to law; and

362 (iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including
363 behavior involving physical violence, restraint, improper touching, or inappropriate exposure
364 of body parts not normally exposed in public settings, forced ingestion of any substance, or any
365 act which would constitute a crime against a person or public order under Utah law.

366 (3) (a) School employees who reasonably believe that a violation of this section may
367 have occurred shall immediately report that belief to the school principal, district
368 superintendent, or chief administrative officer of a charter school.

369 (b) Principals who receive a report under Subsection (3)(a) shall submit a report of the
370 alleged incident, and actions taken in response, to the district superintendent or the
371 superintendent's designee within 10 working days after receipt of the report.

372 (c) Failure of a person holding a professional certificate to report as required under this
373 Subsection (3) constitutes an unprofessional practice.

374 (4) Limitations of liability set forth under Section 53G-8-405 apply to this section.

375 Section 7. Section **53G-10-405** is amended to read:

376 **53G-10-405. Instruction on the harmful effects of alcohol, tobacco, electronic**
377 **cigarette products, and controlled substances -- Rulemaking authority -- Assistance from**
378 **the Division of Substance Abuse and Mental Health.**

379 (1) The state board shall adopt rules providing for instruction at each grade level on the
380 harmful effects of alcohol, tobacco, electronic cigarette products, and controlled substances
381 upon the human body and society. The rules shall require [~~but are not limited to~~] instruction on
382 the following:

383 (a) teaching of skills needed to evaluate advertisements for, and media portrayal of,
384 alcohol, tobacco, electronic cigarette products, and controlled substances;

385 (b) directing students towards healthy and productive alternatives to the use of alcohol,
386 tobacco, electronic cigarette products, and controlled substances; and

387 (c) discouraging the use of alcohol, tobacco, electronic cigarette products, and
388 controlled substances.

389 (2) At the request of the state board, the Division of Substance Abuse and Mental
390 Health shall cooperate with the state board in developing programs to provide this instruction.

391 (3) The state board shall participate in efforts to enhance communication among
392 community organizations and state agencies, and shall cooperate with those entities in efforts
393 which are compatible with the purposes of this section.

394 (4) The state board shall establish a library of documented best practices and resources
395 for alcohol, tobacco, and electronic cigarette product cessation interventions for use by local
396 school districts.

397 Section 8. Section **53G-10-406** is amended to read:

398 **53G-10-406. Underage Drinking and Substance Abuse Prevention Program --**
399 **State board rules.**

400 (1) As used in this section:

401 (a) "Advisory council" means the Underage Drinking and Substance Abuse Prevention
402 Program Advisory Council created in this section.

403 (b) "Program" means the Underage Drinking and Substance Abuse Prevention Program
404 created in this section.

405 (c) "School-based prevention program" means an evidence-based program [~~intended~~
406 ~~for students aged 13 and older~~] that:

407 (i) is aimed at preventing underage consumption of alcohol and underage use of
408 electronic cigarette products;

409 (ii) is delivered by methods that engage students in storytelling and visualization;

410 (iii) addresses the behavioral risk factors associated with underage drinking and use of
411 electronic cigarette products; and

412 (iv) provides practical tools to address the dangers of underage drinking and use of
413 electronic cigarette products.

414 (2) There is created the Underage Drinking and Substance Abuse Prevention Program
415 that consists of:

416 (a) a school-based prevention program for students in grade 4 or 5;

417 [~~(a)~~] (b) a school-based prevention program for students in grade 7 or 8; and

418 [~~(b)~~] (c) a school-based prevention program for students in grade 9 or 10 that increases
419 awareness of the dangers of driving under the influence of alcohol.

420 (3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each
421 school year to each student in grade 7 or 8 and grade 9 or 10.

422 (b) In addition to Subsection (3)(a), beginning with the 2020-21 school year, an LEA
423 shall offer the program each school year to each student in grade 4 or 5.

424 [~~(b)~~] (c) An LEA shall select from the providers qualified by the state board under
425 Subsection (6) to offer the program.

426 (4) The state board shall administer the program with input from the advisory council.

427 (5) There is created the Underage Drinking and Substance Abuse Prevention Program
428 Advisory Council comprised of the following members:

429 (a) the executive director of the Department of Alcoholic Beverage Control or the
430 executive director's designee;

431 (b) the executive director of the Department of Health or the executive director's
432 designee;

433 (c) the director of the Division of Substance Abuse and Mental Health or the director's
434 designee;

435 (d) the director of the Division of Child and Family Services or the director's designee;

436 (e) the director of the Division of Juvenile Justice Services or the director's designee;

437 (f) the state superintendent or the state superintendent's designee; and

438 (g) two members of the state board, appointed by the chair of the state board.

439 (6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state
440 board shall qualify one or more providers to provide the program to an LEA.

441 (b) In selecting a provider described in Subsection (6)(a), the state board shall consider:

442 (i) whether the provider's program complies with the requirements described in this
443 section;

444 (ii) the extent to which the provider's [~~underage drinking~~] prevention program aligns
445 with core standards for Utah public schools; and

446 (iii) the provider's experience in providing a program that is effective[~~-at reducing~~
447 ~~underage drinking~~].

448 (7) (a) The state board shall use money from the Underage Drinking and Substance
449 Abuse Prevention Program Restricted Account described in Section 53F-9-304 for the
450 program.

451 (b) The state board may use money from the Underage Drinking Prevention Program
452 Restricted Account to fund up to .5 of a full-time equivalent position to administer the
453 program.

454 (8) The state board shall make rules that:

455 (a) beginning with the 2018-19 school year, require an LEA to offer the Underage
456 Drinking and Substance Abuse Prevention Program each school year to each student in grade 7
457 or 8 and grade 9 or 10; [~~and~~]

458 (b) beginning with the 2020-21 school year, require an LEA to offer the Underage
459 Drinking and Substance Abuse Prevention Program each school year to each student in grade 4
460 or 5; and

461 [~~(b)~~] (c) establish criteria for the state board to use in selecting a provider described in
462 Subsection (6).

463 Section 9. Section **53G-10-407** is enacted to read:

464 **53G-10-407. Positive behaviors plan -- Positive behaviors specialist stipend --**

465 **Reports.**

466 (1) As used in this section:

467 (a) "Positive behaviors plan" means a plan to address the causes of student use of
468 tobacco, alcohol, electronic cigarette products, and other controlled substances through
469 promoting positive behaviors.

470 (b) "Positive behaviors specialist" means an individual designated to administer a
471 positive behaviors plan.

472 (2) (a) A school principal shall:

473 (i) create a positive behaviors plan:

474 (A) with the assistance of the school community council described in Section
475 53G-7-1202, or the charter trust land council described in Section 53G-7-1205; and

476 (B) based on the input of students, parents, and staff; and

477 (ii) submit the positive behaviors plan to the LEA governing board for approval.

478 (b) A positive behaviors plan shall address issues including peer pressure, mental
479 health, and creating meaningful relationships.

480 (c) A positive behaviors plan may include programs, clubs, service opportunities, and
481 pro-social activities.

482 (3) Each LEA shall designate one or more employees as a positive behaviors specialist
483 for each school to administer the positive behaviors plan.

484 (4) (a) The state board shall distribute annually to each school:

485 (i) \$3,000 as a stipend for the positive behaviors specialists; and

486 (ii) \$1,000 to administer the positive behaviors plan.

487 (b) Notwithstanding Subsection (4)(a), if funding is insufficient to cover the costs
488 associated with stipends, the state board may reduce the amount of the stipend.

489 (5) (a) A positive behaviors specialist shall annually submit a written report to the LEA
490 governing board detailing how the positive behaviors plan was implemented in the prior year.

491 (b) An LEA governing board shall submit an annual report to the state board
492 confirming that each school under the governing board's jurisdiction has an approved positive
493 behaviors plan.

494 Section 10. Section **76-10-101** is amended to read:

495 **76-10-101. Definitions.**

496 As used in this part:

497 (1) "Cigar" means a product that contains nicotine, is intended to be burned under

498 ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in
499 any substance containing tobacco, other than any roll of tobacco that is a cigarette as described
500 in Subsection (2).

501 (2) "Cigarette" means a product that contains nicotine, is intended to be burned under
502 ordinary conditions of use, and consists of:

503 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

504 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of
505 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to
506 be offered to, or purchased by, consumers as a cigarette described in Subsection (2)(a).

507 (3) "Electronic cigarette" means an electronic cigarette product, as defined in Section
508 59-14-802.

509 (4) "Place of business" includes:

510 (a) a shop;

511 (b) a store;

512 (c) a factory;

513 (d) a public garage;

514 (e) an office;

515 (f) a theater;

516 (g) a recreation hall;

517 (h) a dance hall;

518 (i) a poolroom;

519 (j) a café;

520 (k) a cafeteria;

521 (l) a cabaret;

522 (m) a restaurant;

523 (n) a hotel;

524 (o) a lodging house;

525 (p) a streetcar;

526 (q) a bus;

527 (r) an interurban or railway passenger coach;

528 (s) a waiting room; and

529 (t) any other place of business.

530 (5) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled
531 with an electronic cigarette substance.

532 [~~(5)~~] (6) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other
533 lighted smoking equipment.

534 Section 11. Section **76-10-105 (Superseded 07/01/20)** is amended to read:

535 **76-10-105 (Superseded 07/01/20). Buying or possessing a cigar, cigarette,**
536 **electronic cigarette, or tobacco by a minor -- Penalty -- Compliance officer authority --**
537 **Juvenile court jurisdiction.**

538 (1) Any 18 year old person who buys or attempts to buy, accepts, or has in the person's
539 possession any cigar, cigarette, electronic cigarette, prefilled electronic cigarette, or tobacco in
540 any form is guilty of a class C misdemeanor and subject to:

541 (a) a minimum fine or penalty of \$60; and

542 (b) participation in a court-approved tobacco education program, which may include a
543 participation fee.

544 (2) Any person under the age of 18 who buys or attempts to buy, accepts, or has in the
545 person's possession any cigar, cigarette, electronic cigarette, prefilled electronic cigarette, or
546 tobacco in any form is subject to the jurisdiction of the juvenile court and subject to Section
547 78A-6-602, unless the violation is committed on school property. If a violation under this
548 section is adjudicated under Section 78A-6-117, the minor may be subject to the following:

549 (a) a fine or penalty, in accordance with Section 78A-6-117; and

550 (b) participation in a court-approved tobacco education program, which may include a
551 participation fee.

552 (3) A compliance officer appointed by a board of education under Section 53G-4-402
553 may not issue a citation for a violation of this section committed on school property. A cited
554 violation committed on school property shall be addressed in accordance with Section
555 53G-8-211.

556 Section 12. Section **76-10-105 (Effective 07/01/20)** is amended to read:

557 **76-10-105 (Effective 07/01/20). Buying or possessing a cigar, cigarette, electronic**
558 **cigarette, or tobacco by a minor -- Penalty -- Compliance officer authority -- Juvenile**
559 **court jurisdiction.**

560 (1) (a) An individual who is 18 years or older, but younger than the age specified in
561 Subsection (1)(b), and buys or attempts to buy, accepts, or has in the individual's possession
562 any cigar, cigarette, electronic cigarette, prefilled electronic cigarette, or tobacco in any form is
563 guilty of an infraction and subject to:

564 (i) a minimum fine or penalty of \$60; and

565 (ii) participation in a court-approved tobacco education or cessation program, which
566 may include a participation fee.

567 (b) For purposes of Subsection (1)(a), the individual is younger than:

568 (i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

569 (ii) beginning July 1, 2021, 21 years old.

570 (2) An individual under the age of 18 who buys or attempts to buy, accepts, or has in
571 the individual's possession any cigar, cigarette, electronic cigarette, prefilled electronic
572 cigarette, or tobacco in any form is subject to the jurisdiction of the juvenile court and subject
573 to Section 78A-6-602, unless the violation is committed on school property. If a violation
574 under this section is adjudicated under Section 78A-6-117, the minor may be subject to the
575 following:

576 (a) a fine or penalty, in accordance with Section 78A-6-117; and

577 (b) participation in a court-approved tobacco education program, which may include a
578 participation fee.

579 (3) A compliance officer appointed by a board of education under Section 53G-4-402
580 may not issue a citation for a violation of this section committed on school property. A cited
581 violation committed on school property shall be addressed in accordance with Section
582 53G-8-211.

583 (4) (a) This section does not apply to the purchase or possession of a cigar, cigarette,
584 electronic cigarette, prefilled electronic cigarette, tobacco, or tobacco paraphernalia by an
585 individual who is 18 years or older and is:

586 (i) on active duty in the United States Armed Forces; or

587 (ii) a spouse or dependent of an individual who is on active duty in the United States
588 Armed Forces.

589 (b) A valid, government-issued military identification card is required to verify proof
590 of age under Subsection (4)(a).

